

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California
www.spb.ca.gov

Public Session Location - Room 150

Closed Session Location - Room 141

FULL BOARD MEETING MINUTES

August 1, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Ron Alvarado, Vice President
Richard Carpenter, Member
William Elkins, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn
(Presented by Linda Brooks, Assistant Executive Officer)

The Board was advised of the following:

A. State Personnel Board's Guide to Workforce Planning.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation

- A. Roe v. State Personnel Board - Oral argument in First District Court of Appeal taken off calendar as no one requested an appearance. Matter under submission.
- B. Engel v. Meith, et al. - Demurrer and motion to strike and motion for sanctions scheduled for hearing July 31, 2000. Waiting to hear results.

Other

- A. Discussions underway with affected departments regarding implementation of AB 2866 which added Government Code Section 19134 to provide that personal services contracts entered into by state agency under Government Code Section 19130(a) for janitorial, housekeeping and other specified services must provide employee benefits valued at least 85% of state employer costs for similar benefits.
 - B. State Employee Mediation Program (SEMP) - To date, over 160 cases have been mediated through SEMP with a written settlement rate in excess of 90%. More than 40 state departments are participating. A draft written report for the last fiscal year is in progress.
4. ORAL ARGUMENT
- Oral argument in the matter of MARY CATHERINE GRAY, CASE NO. 98-0578. Appeal from dismissal. Department of Corrections.

Persons Participating:

Terry R. Price, Attorney at Law, representing appellant
Sally Y. Kim, Staff Counsel, representing Department of Corrections

ACTION: Submitted

5. ORAL ARGUMENT
- Oral argument in the matter of SULEMAN A. MOOSA, CASE NO. 98-3503. Appeal from demotion. California State University, Chico.

Persons Participating:

Suleman A. Moosa, Appellant, Pro Per
Donald Newman, University Counsel, Office of General
Counsel, representing California State University

ACTION: Submitted

6. HEARING - DEPUTY COMMISSIONER, BOARD OF PRISON TERMS(SAFETY)
The Board of Prison Terms proposes the establishment of the new classification of Deputy Commissioner, Board of Prison Terms (Safety); establishment of a 12-month probationary period; and the designation of footnote 24 to the existing class of Deputy Commissioner, Board of Prison Terms.

Persons Participating:

John Jackson, Staff, California State Personnel Board
Pat Embly, Staff, California State Personnel Board
Louie DiNinni, Executive Officer, Board of Prison Terms
Linda Buzzini, Labor Relations Counsel, Department of
Personnel Administration
Gary Messing, Attorney at Law, Carroll, Burdick & McDonough
LLP
Sal D. Baca, Director, Association of California State
Attorneys and Administrative Law Judges

ACTION: Submitted

7. HEARING - PROPOSITION 35 (PUBLIC WORKS PROJECTS)
Use of private contractors for engineering and architectural services. The Board will consider views on the initiative and actions the Board should take.

Persons Participating:

Karen Brandt, Staff Counsel, California State Personnel
Board
Paul Meyers, representing Consulting Engineers and Land
Surveyors of California (CELSOC)
Richard Martland, Esq. representing CELSOC
Bruce Blanning, representing Professional Engineers in
California Government (PECG)
Sherrie Golden, representing California State Employees
Association (CSEA)
Kathy Hackett, Cal Trans Associate Budget Analyst,
representing CSEA
Janice Diaz, representing CSEA

ACTION: Submitted

BOARD ACTIONS

8. STATE PERSONNEL BOARD SUMMARY MINUTES OF JULY 18, 2000

ACTION: Adopted on August 1, 2000.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

9. ACTION ON SUBMITTED ITEMS

ACTION: See pages 14-15

10. ADMINISTRATIVE LAW JUDGE CASES

On August 1, 2000, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

CHIEF COUNSEL RESOLUTIONS

RICHARD E. BOYER, CASE NO. 00-0461

Appeal from dismissal

Department of Toxic Substances Control

ACTION: Board adopted stipulated settlement

PAULETTE LACY, CASE NO. 98-3127

Appeal from demotion

State Water Resources Control Board

ACTION: Appellant's request for enforcement of State Personnel Board's decision in Case No. 98-3127 denied without prejudice to the right of appellant to seek a judicial remedy

LUKE SHENOY, CASE NO. 98-2672

Appeal from demotion

Stephen P. Teale Data Center

ACTION: Adopted Board resolution that the matter is referred to Chief Administrative Law Judge to assign to an administrative law judge to conduct an evidentiary hearing in accordance with Government Code section 18710

PROPOSED DECISIONS

MICHAEL L. RANDALL, CASE NO. 00-0620
Appeal from 1-step reduction in salary for 12 months
Department of Transportation
ACTION: Reduction in salary modified to 1-step for 6 months

JACQUELINE L. ORAVITZ, CASE NO. 00-1415
Appeal from dismissal
Department of Health Services
ACTION: Dismissal modified to 6 months suspension
JOHN WALTER, CASE NO. 99-2775
Appeal from dismissal
Department of Corrections
ACTION: Board adopted findings of fact, but modified
penalty of dismissal to 90 days suspension

ANITA CARTER, CASE NO. 99-5005
Appeal from 5 working days suspension
Department of Social Services
ACTION: Suspension sustained

CARLA EGGMAN-GARRETT, CASE NO. 00-0008
Appeal from rejection
Department of Corrections
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself.

ANGELINA EMERICK YOUNG, CASE NO. 00-0843
Appeal from constructive medical suspension
San Diego State University
ACTION: Appeal denied

DONNA VALADOR, CASE NO. 00-0472
Appeal from rejection
ACTION: Rejection affirmed and appeal denied

ALEXANDER M. AGUILO, CASE NO. 00-1373
Appeal from 5 percent reduction in salary for 10 months
Department of Corrections
ACTION: Reduction in salary sustained

ROBERT D. COBAUGH, CASE NO. 99-0004
Appeal from termination of T&D
Department of Corrections
ACTION: Termination of T&D assignment sustained and

demotion modified to demotion for 6 Months

ANA R. GOMEZ, CASE NO. 99-4831

Appeal from 10 percent reduction in salary for 6 pay periods
Department of the Youth Authority

ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself.

LUPE RUVALCABA, CASE NO. 99-4139

Appeal from 4 working days suspension
Department of Justice

ACTION: Suspension sustained

DAVID MARTIN, CASE NO. 00-0519

Appeal from 5 percent reduction in salary for 6 months
Department of Corrections

ACTION: Reduction in salary revoked

ESTEBAN MORALES, CASE NO. 00-0465

Appeal from 30-calendar day's suspension
Department of Developmental Services

ACTION: Suspension revoked

MICHAELE MCGREGOR, CASE NO. 00-0150

Appeal from official reprimand
Department of the Youth Authority

ACTION: Official reprimand sustained

ROGERS WARD, CASE NO. 99-5302

Appeal from rejection
Employment Development Department

ACTION: Rejection affirmed and appeal denied

RUSSELL KOHN, CASE NO. 00-0844

Appeal from 30-calendar day's suspension
Department of Mental Health

ACTION: Suspension sustained

JUAN T. CASTILLO, CASE NO. 00-0511

Appeal from dismissal
Department of Corrections

ACTION: Dismissal modified to 6 months suspension

CHARLES M. McCORMICK, CASE NO. 00-0142

Appeal from 14 working days suspension
Employment Development Department

ACTION: Suspension sustained

JOHN KARAM, CASE NO. 99-4648
Appeal from official reprimand
Department of Corrections
ACTION: Official reprimand revoked

FERNANDO V. GANDARA JR., CASE NO. 99-3867
Complaint of discrimination/retaliation from the position
Department of Veterans Affairs
ACTION: Complaint of Discrimination/retaliation dismissed

LOUDENE M. KIRKEGAARD, CASE NO. 99-4821
Appeal from 1-step reduction in salary for 3 pay periods
State Compensation Insurance Fund
ACTION: Reduction in salary sustained

FRANK A. BROWHAW III, CASE O. 99-1584
Appeal from 15 percent reduction in salary for 12 pay
periods
Department of Corrections
ACTION: Reduction in salary sustained

KATHY A. ETTANDIP, CASE NO. 99-1632
Appeal from dismissal
Employment Development Department
ACTION: Dismissal sustained

LAWRENCE C. RAYNOR, CASE NO. 98-4853
Appeal from dismissal
Department of Corrections
ACTION: Dismissal sustained

11. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: See pages 16-18

12. MISCELLANEOUS APPEALS DIVISION CASES
Withholds, Voided Appointments, Rule 211 Appeals, Petitions
for Rehearing)

On August 1, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

RULE 211

- A. COLLETTE WYNNE, CASE NO. 00-1065
Classification: Janitor
ACTION: WITHDRAWN

VOIDING OF APPOINTMENT

- B. CONTRACTORS STATE LICENSE BOARD, CASE NO. 99-5328
Classification: Career Executive Assignment I
ACTION: DENIED

WITHHOLD CASES

- C. ANIEL MORESI, CASE NO. 00-0782
Classification: Youth Correctional Officer
ACTION: DENIED
- D. ERICK BOGGS, CASE NO. 99-4989
Classification: Correctional Officer
ACTION: GRANTED
- E. THERONE R. LATSON, CASE NO. 99-4906
Classification: Parole Agent I, Adult Parole
ACTION: GRANTED
- F. CONRAD A. RIVARDE, CASE NO. 99-5049
Classification: Licensing-Registration Examiner
ACTION: GRANTED
- G. PEGGY WATT, CASE NO. 99-4167
Classification: Staff Services Analyst (G)
ACTION: GRANTED
- H. JAVIER GODINEZ CORDOVA, CASE NO. 99-4281
Classification: Correctional Officer
ACTION: DENIED
- I. VICKI T. CRUZ, CASE NO. 00-0621
Classification: Correctional Officer
ACTION: DENIED

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- J. RAMON DOMINGUEZ, CASE NO. 99-0995
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- K. GREGORY X. GUZMAN, CASE NO. 99-3314
Classification: Correctional Officer
ACTION: DENIED
- L. WESLEY HIGASHI, CASE NO. 99-4561
Classification: Associate Information Systems Analyst
ACTION: DENIED
- M. MICHELLE JOURDAN, CASE NO. 00-0322
Classification: Parole Agent I, Adult Parole
ACTION: DENIED
- N. CHRISTOPHER W. NELSON, CASE NO. 00-0295
Classification: Correctional Officer
ACTION: DENIED
- O. STEVEN W. PARSONS, CASE NO. 00-0214
Classification: Parole Agent I, Adult Parole
ACTION: DENIED
- P. JAMES STEWART, CASE NO. 00-0559
Classification: Correctional Officer
ACTION: DENIED
- Q. EFREN D. TOLENTINO, CASE NO. 00-0437
Classification: Correctional Officer
ACTION: DENIED

DISMISSALS

- R. RICHARD DEBENEDICTIS, CASE NO. 00-0119
Classification: Hospital Peace Officer I
ACTION: DISMISSED
- S. PENNY L. MILLER, CASE NO. 00-1399
Classification: Motor Vehicle Field Rep.
ACTION: DISMISSED
- T. STEPHANIE MORENO, CASE NO. 00-1401
Classification: Youth Correctional Officer
ACTION: DISMISSED

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U. WILLIAM C. RAY, CASE NO. 00-2130
Classification: Hospital Police Officer I
ACTION: DISMISSED

V. PAUL SMITH, CASE NO. 00-1787
Classification: Correctional Officer
ACTION: DISMISSED

13. MEDICAL APPEALS

On August 1, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

A. CYNTHIA GOURGAUD-HARRISON, CASE NO. 99-4926
Classification: Office Technician (G)
ACTION: DISMISSED

B. CONNIE M. JACKSON, CASE NO. 00-0417
Classification: Health Services Specialist
ACTION: DISMISSED

C. JEFFERY HOLZ, CASE NO. 00-2033
Classification: Correctional Officer
ACTION: GRANTED

D. JOSEPH MACHADO, CASE NO. 00-1934
Classification: Cadet, California Highway Patrol
ACTION: GRANTED

E. DAVID O'CALLAGHAN, CASE NO. 00-2009
Classification: Hospital Police Officer I
ACTION: GRANT

F. MATT TIMMONS, CASE NO. 00-1321
Classification: Cadet, California Highway Patrol
ACTION: GRANTED

G. ROBERT MCCARTY, CASE NO. 00-1085
Classification: Youth Correctional Counselor
ACTION: DISMISSED

H. ALLISON MEE, CASE NO. 00-0801
Classification: Youth Correctional Counselor
ACTION: DENIED

14. REQUEST TO FILE CHARGES CASES

On August 1, 2000, the Board took the following actions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

A. DON REVELS, CASE NO. 99-1131

Classification: Youth Correctional Counselor

ACTION: DENIED

B. MICHELLE ROBINSON, CASE NO. 99-1774

Classification: Office Technician

ACTION: DENIED

15. NON-HEARING CALENDAR

On August 1, 2000, the Board adopted items A-C. These items were presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

A. CRIMINAL INVESTIGATOR, DEPARTMENT OF TOXIC SUBSTANCES CONTROL SERIES

The Department of Toxic Substances Control proposes the establishment of a new classification series titled Criminal Investigator, Department of Toxic Substances Control and establishment of a 12-month probationary period for the three classifications in the series.

B. COMMUNICATIONS OPERATOR, CALIFORNIA HIGHWAY PATROL SERIES

The Department of California Highway Patrol proposes to revise the series specification for the Communications Operator, California Highway Patrol.

C. WATER AND SEWAGE PLANT OPERATOR, DEPARTMENT OF FORESTRY AND FIRE PROTECTION

HEAVY EQUIPMENT MECHANIC, (CORRECTIONAL FACILITY)

The Department of Forestry and Fire Protection is proposing a title change and specification revisions to the Water and Sewage Plant Operator, Department of Forestry and Fire Protection class; and specification revisions to the class of Heavy Equipment Mechanic (Correctional Facility).

16. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

(1) LIBRARY BOND ACT MANAGER OF THE OFFICE OF LIBRARY CONSTRUCTION

The California State Library proposes to allocate the above position to the CEA category. The position will be primarily responsible for the development and implementation of the Bond Act program and will meet directly with state and local governmental officials in the development of policies, rules and regulations governing the program. The department indicates that the position will be at the second organizational level and will report directly to the State Librarian.

(2) CHIEF, OFFICE OF LEGISLATION

The Department of Child Support Services proposes to allocate the above position to the CEA category. The position will direct and oversee all operations of the Office of Legislation. The department indicates that the position will be at the second organizational level and will report to the Director.

(3) EXECUTIVE DIRECTOR, SALINAS VALLEY PSYCHIATRIC PROGRAM

The Department of Mental Health proposes to allocate the above position to the CEA category. The position will be responsible for establishing the new psychiatric program at Salinas Valley within the existing Correctional Treatment Center. The department indicates that the position will be at the third organizational level and will report to the Deputy Director, Long Term Care Services.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

(1) CHIEF DEPUTY DIRECTOR

The Department of Managed Care's proposal to allocate the above position to the CEA category has been approved effective June 29, 2000.

(2) CHIEF, OFFICE OF COMMUNITY AND CONSUMER AFFAIRS
The Department of Justice's proposal to allocate the above position to the CEA category has been approved effective July 11, 2000.

(3) CHIEF, OFFICE OF HEALTH PLAN OVERSIGHT
The Department of Managed Health Care's proposal to allocate the above position to the CEA category has been approved effective July 12, 2000.

C. REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

None submitted.

D. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

(1) DEPUTY DIRECTOR, ADMINISTRATIVE SERVICES DIVISION
The Health and Human Services Data Center's request to refill the above position has been approved effective June 29, 2000.

(2) CHIEF, ADVOCACY AND POLICY BRANCH
The Department of Social Services request to refill the above position has been approved effective June 30, 2000.

(3) CHIEF, MANAGEMENT AND SERVICES BRANCH
The Department of Social Services request to refill the above position has been disapproved effective July 11, 2000.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. AARON TUTER, CASE NO. 99-3383. Appeal from dismissal. Department of Corrections. (Oral argument held June 6, 2000).

NO ACTION

2. PRE-EMPLOYMENT DRUG TESTING FOR THE FOLLOWING CLASSES BY THE DEPARTMENT OF DEVELOPMENTAL SERVICES:
NURSE PRACTITIONER (FORENSIC FACILITY)
REGISTERED NURSE (FORENSIC FACILITY)
SUPERVISING REGISTERED NURSE (FORENSIC FACILITY)
NURSE PRACTITIONER (SAFETY)
TEACHER, STATE HOSPITAL (SEVERELY HANDICAPPED-DEVELOPMENTALLY DISABLED - SAFETY)
VOCATIONAL INSTRUCTOR (CARPENTRY - SAFETY)
VOCATIONAL INSTRUCTOR (LANDSCAPE GARDENING - SAFETY)
VOCATIONAL INSTRUCTOR (UPHOLSTERING - SAFETY)
INDUSTRIAL THERAPIST (SAFETY)
INDIVIDUAL PROGRAM COORDINATOR (SAFETY)
PSYCHIATRIC SOCIAL WORKER (HEALTH FACILITY)(SAFETY)
PSYCHOLOGIST (HEALTH FACILITY-CLINICAL-SAFETY)
PSYCHOLOGIST (HEALTH FACILITY-COUNSELING-SAFETY)
PSYCHOLOGIST (HEALTH FACILITY-EDUCATIONAL-SAFETY)
PSYCHOLOGIST (HEALTH FACILITY-EXPERIMENTAL-SAFETY)
PSYCHOLOGIST (HEALTH FACILITY-SOCIAL-SAFETY)
REHABILITATION THERAPIST, STATE FACILITIES (ART-SAFETY)
REHABILITATION THERAPIST, STATE FACILITIES (DANCE-SAFETY)
REHABILITATION THERAPIST, STATE FACILITIES (MUSIC-SAFETY)
REHABILITATION THERAPIST, STATE FACILITIES (OCCUPATIONAL-SAFETY)
REHABILITATION THERAPIST, STATE FACILITIES (RECREATION-SAFETY)
SOCIAL WORK ASSOCIATE (SAFETY)
PHYSICIAN AND SURGEON (SAFETY)
STAFF PSYCHIATRIST (SAFETY)
HOSPITAL WORKER (SAFETY)
LICENSED VOCATIONAL NURSE (SAFETY)
TEACHING ASSISTANT (SAFETY)
(Hearing held July 6, 2000).

ACTION: On August 1, 2000, adopted recommendation with an amendment that the class of Hospital Worker (Safety) be withdrawn.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

August 1, 2000

3. JEANETTE DUTTON, CASE NO. 98-2550. Appeal from dismissal. Department of Corrections. (Oral argument held July 6, 2000).

NO ACTION

4. HEARING - COMPETITIVE CEA EXAMINATIONS
EXISTING RULE 548.40 IS AMENDED TO COMPLY WITH THE FINDING
IN ALEXANDER V SPB THAT CEA EXAMINATION CANDIDATES MUST BE
RANKED AND COMPARED AGAINST THE RELEVANT QUALIFICATIONS FOR
THE POSITION AND ALSO AGAINST EACH OTHER. (Hearing held
July 6, 2000).

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases

that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on August 1, 2000.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.